

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

In light of the status of the pleadings in this case, the Court finds it appropriate to schedule a settlement conference. Accordingly, the Settlement Conference shall be conducted on **March 10, 2008** at **1:30 p.m.** in the chambers of Magistrate Judge Barbara L. Major located at **940 Front Street, Suite 5140, San Diego, CA 92101**.<sup>1</sup> All discussions at the Settlement Conference will be informal, off the record, privileged, and confidential. Counsel for any non-English speaking party is responsible for arranging for the appearance of an interpreter at the conference.

1        a.    **Personal Appearance of Parties Required:**    All parties,  
 2 adjusters for insured defendants, and other representatives of a party  
 3 having full and complete authority to enter into a binding settlement,  
 4 as well as the principal attorneys responsible for the litigation, must  
 5 be present **in person** and legally and factually prepared to discuss  
 6 settlement of the case.    Counsel appearing without their clients  
 7 (whether or not counsel has been given settlement authority) will be  
 8 cause for immediate imposition of sanctions and may also result in the  
 9 immediate termination of the conference.

10        Unless there are extraordinary circumstances, persons required to  
 11 attend the conference pursuant to this Order shall not be excused from  
 12 personal attendance.    **Requests for excuse from attendance for**  
 13 **extraordinary circumstances shall be made in writing at least three (3)**  
 14 **court days prior to the conference.** Failure to appear **in person** at the  
 15 Settlement Conference will be grounds for sanctions.<sup>2</sup>

16        b.    **Full Settlement Authority Required:**    In addition to counsel  
 17 who will try the case, a party or party representative with **full**  
 18 **settlement authority**<sup>3</sup> must be present for the conference.    In the case  
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20        <sup>2</sup>        To the extent counsel made the Court aware during the scheduling of this  
 21 conference that certain individuals may not be able to attend but would be available  
 22 by telephone, the Court will consider making an exception to this rule.    However,  
 23 counsel must contact the Court in advance of the conference to confirm who will not be  
 24 able to attend and why.

25        <sup>3</sup>        "Full settlement authority" means that the individuals at the settlement  
 26 conference must be authorized to explore settlement options fully and to agree at that  
 27 time to any settlement terms acceptable to the parties.    Heileman Brewing Co. v. Joseph  
 28 Oat Corp., 871 F.2d 648, 653 (7th Cir. 1989).    The person needs to have "unfettered  
 discretion and authority" to change the settlement position of a party.    Pitman v.  
Brinker Int'l, Inc., 216 F.R.D. 481, 485-86 (D. Ariz. 2003).    The purpose of requiring

1 of a corporate entity, an authorized representative of the corporation  
 2 who is not retained outside counsel must be present and must have  
 3 discretionary authority to commit the company to pay an amount up to the  
 4 amount of the Plaintiff's prayer (excluding punitive damages prayers).  
 5 The purpose of this requirement is to have representatives present who  
 6 can settle the case during the course of the conference without  
 7 consulting a superior. Counsel for a government entity may be excused  
 8 from this requirement so long as the government attorney who attends the  
 9 Settlement Conference (1) has primary responsibility for handling the  
 10 case, and (2) may negotiate settlement offers which the attorney is  
 11 willing to recommend to the government official having ultimate  
 12 settlement authority.

13 c. **Confidential Settlement Statements Required:** No later than  
 14 **March 7, 2008**, the parties shall submit directly to Magistrate Judge  
 15 Major's chambers confidential settlement statements no more than five  
 16 (5) pages in length. **These confidential statements shall not be filed**  
 17 **or served on opposing counsel.** Each party's confidential statement must  
 18 include the following:

19 (i) A brief description of the case, the claims and/or  
 20 counterclaims asserted, and the applicable defenses or position  
 21 regarding the asserted claims;

22 (ii) A specific and current demand or offer for settlement  
 23 addressing all relief or remedies sought. If a specific demand or offer  
 24 for settlement cannot be made at the time the brief is submitted, then

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26 a person with unlimited settlement authority to attend the conference contemplates that  
 27 the person's view of the case may be altered during the face to face conference. Id.  
 28 at 486. A limited or a sum certain of authority is not adequate. See Nick v. Morgan's  
Foods, Inc., 270 F.3d 590, 595-97 (8th Cir. 2001).

1 the reasons therefore must be stated along with a statement as to when  
2 the party will be in a position to state a demand or make an offer; and  
3 (iii) A brief description of any previous settlement  
4 negotiations, mediation sessions, or mediation efforts.

5 General statements that a party will "negotiate in good faith" is  
6 not a specific demand or offer contemplated by this Order. It is  
7 assumed that all parties will negotiate in good faith.

8 If the case is settled in its entirety before the scheduled date of  
9 the conference, counsel and any unrepresented parties must still appear  
10 in person, unless a written joint motion confirming the complete  
11 settlement of the case is submitted no fewer than twenty-four (24) hours  
12 before the scheduled conference.

13 IT IS SO ORDERED.

14 DATED: March 4, 2008

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16 BARBARA L. MAJOR  
17 United States Magistrate Judge  
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20 COPY TO:

21 HONORABLE JANIS L. SAMMARTINO  
22 U.S. DISTRICT JUDGE

23 ALL COUNSEL  
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